

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC**

**Application of: RECURRENT TRAINING CENTER, INC.**

FAA Order No. 2011-12

Docket No. CP10GL0010  
FDMS No. FAA-2010-0973<sup>1</sup>

Served: November 22, 2011

**ORDER DISMISSING APPEAL  
AND REMANDING MATTER TO  
ADMINISTRATIVE LAW JUDGE<sup>2</sup>**

Applicant Recurrent Training Center (“Recurrent”) appealed from the written initial decision by Administrative Law Judge Richard C. Goodwin, holding that the FAA’s position in the underlying civil penalty action<sup>3</sup> was substantially justified, and denying Recurrent’s application under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504. In its reply brief, the FAA conceded, after “in-depth review,” that it was not substantially justified in proceeding with the underlying civil penalty action. (Complainant’s Reply Brief at 4.) The FAA argued further that the EAJA award sought by Recurrent was excessive and requested that the Administrator resolve the issues regarding the amount of legal and agent fees and other expenses that should be awarded

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<sup>1</sup> Generally, materials filed in the FAA Hearing Docket (except for materials filed in security cases) are also available for viewing at <http://www.regulations.gov>. 14 C.F.R. § 13.210(e)(1).

<sup>2</sup> The Administrator’s civil penalty decisions, along with indexes of the decisions, the rules of practice, and other information, are available on the Internet at the following address: [www.faa.gov/about/office\\_org/headquarters\\_offices/agc/pol\\_adjudication/AGC400/Civil\\_Penalty/](http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty/). See 14 C.F.R. § 13.210(e)(2). In addition, Thomson Reuters/West Publishing publishes Federal Aviation Decisions. Finally, the decisions are available through LEXIS (TRANS library) and WestLaw (FTRAN-FAA database). For additional information, see the Web site.

<sup>3</sup> FAA Docket No. CP09GL0008; FDMS No. FAA-2009-0971.

to Recurrent. However, neither the ALJ in his initial decision nor Recurrent in its appeal brief addressed any issue other than whether the FAA's position in the underlying litigation was substantially justified. Hence, Recurrent's appeal is dismissed, and this matter is remanded to the ALJ for further proceedings as necessary to resolve the remaining issues regarding the proper award under the EAJA.<sup>4</sup>

[Original signed by J. Randolph Babbitt]

J. RANDOLPH BABBITT  
ADMINISTRATOR  
Federal Aviation Administration

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<sup>4</sup> In light of this order, there is no need to rule upon Recurrent's request to file an additional brief, which was opposed by Complainant.